

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

OP.No. 10699 of 2003(W)

PETITIONER:

DEEPA PRADEEP, W/O.ANTONY PRADEEP,
AGED 35, RESIDING AT DEEPA COTTAGE,
KOCHUTHOPU, VALLAKADAVU P.O.,
TRIVANDRUM.

BY ADV. SRI.M.SREEKUMAR

RESPONDENTS:

1. THE KERALA STATE FINANCIAL
ENTERPRISES REP. BY ITS MANAGING
DIRECTOR, TRISSUR.
2. THE SPECIAL DEPUTY TAHSILDAR
(RR), KSFE LTD, REGIONAL OFFICE,
SILVER JUBILEE BUILDINGS STATUE,
THIRUVANANTHAPURAM.

BY ADV. SRI.RAJU JOSEPH, ADDL.SC.,KSFE LTD.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 19/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP 18399 OF 2003 IN OP 10699 OF 2003

DISMISSED

19.12.2006

SD/-C.N.RAMACHANDRAN NAIR, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE FIRST
RESPONDENT DATED 5.2.2002

EXT.P2 TRUE COPY OF THE NOTICE NO. SDT/TVM/1309/99 ISSUED BY THE SECOND
RESPONDENT TO THE PETITIONER DATED 7.12.2002

EXT.P3 TRUE COPY OF THE SALE NOTICE ISSUED UNDER SECTION 49(2) OF THE ACT
DATED 7.12.2002

EXT.P4 TRUE COPY OF THE REPRESENTATION DATED 15.3.2003

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR,J.

O.P.NO. 10699 OF 2003

Dated this the 19th day of December, 2006

JUDGMENT

Since petitioner's property was mortgaged for the loan availed by the petitioner's husband, recovery is permissible by attachment and sale of petitioner's property. Since this Court granted only conditional order of stay and the petitioner did not comply with the same, respondents have now proceeded for sale of the property. Counsel for the petitioner submitted that petitioner will be able to settle the liability by selling a portion of the mortgaged property. The petitioner's prayer is quite reasonable and the same can be granted. Even though O.P. is pending for more than three years, and petitioner has not taken any serious steps in this direction, I feel further three months' time can be given to the petitioner to settle the liability by sale of mortgaged property or a portion thereof. Respondents are also directed to grant OTS benefit to the petitioner on condition that petitioner will settle the entire liability exclusive of incentives on or before 31.3.2007. If OTS benefit is not available, there will be direction to the respondents to

waive complete penal interest, if liability is settled exclusive of penal interest as stated above. If payments are made by the petitioner voluntarily there will be direction to the respondents not to recover collection charges from the petitioner. Recovery proceedings will be kept in abeyance till 31.3.2007 for settlement of liability as above. However, if liability is not settled by then there will be direction to the petitioner to hand over the mortgaged property free of possession to the second respondent for sale in auction immediately thereafter, failing which respondents can move this Court for contempt.

(C.N.RAMACHANDRAN NAIR)
Judge

